

_____)	
IN THE MATTER OF:)	SETTLEMENT AGREEMENT
)	
)	
JCC Environmental Superfund Site)	
Picayune, Pearl River County, Mississippi)	U.S. EPA Region 4
)	CERCLA Docket No. 04-2020-2504
)	
SETTLING PARTIES)	PROCEEDING UNDER
(See Appendix A))	SECTION 122(h)(1) OF CERCLA
_____)	42 U.S.C. § 9622(h)(1)

CERCLA SECTION 122(h)(1) SETTLEMENT AGREEMENT FOR DEMAND AMOUNT

1. This Settlement Agreement for Demand Amount ("Settlement") is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated through the Director, Superfund Division, through the Deputy Director, Superfund Division, to the Chief, Superfund Enforcement and Community Engagement Branch.

2. This Settlement concerns the JCC Environmental Superfund Site ("Site") located at 137 J J Holcomb Road in Picayune, Pearl River County, Mississippi, known as the JCC Environmental Superfund Site ("Site"). The Site contained hazardous materials that EPA located in May 2016. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

3. This Settlement Agreement is issued to the persons, corporations, settling federal agencies ("Settling Federal Agencies" or "SFAs") or other entities identified in Appendix A (collectively "Respondents"). Each Respondent consents to and will not contest EPA's authority to enter into this Settlement Agreement or to implement or enforce its terms. Each Respondent agrees to undertake all actions required by this Settlement Agreement. This Settlement is binding upon EPA and upon the Respondents and their heirs, successors, and assigns.

4. Beginning on May 17, 2016, EPA conducted a Time-Critical Removal Action at the Site under CERCLA that included inspecting the Site, removing hazardous substances, and excavating contaminated soils. In performing its response actions, EPA incurred response costs at or in connection with the Site under Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). On October 30, 2018, EPA received the final report confirming the removal of all identified wastes.

5. EPA alleges that the Respondents are responsible parties under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are liable for response costs incurred or to be incurred at or in connection with the Site.

6. On October 16, 2020, EPA issued demand letters to the Respondents for the direct and indirect costs EPA incurred at or in connection with the Site from EPA's initial response on May 17, 2016 through September 1, 2020, plus accrued Interest on all such costs from the date of demand (such costs and interest are collectively referred to as "EPA's Past Response Costs"). The total costs EPA incurred at the Site are \$864,945.44. However, for the purposes of settlement, EPA concludes each letter with a demand to the Respondents for a payment based on their individual contributions of hazardous substances to the Site. Under this Agreement, "Interest" means interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund, in accordance with 42 U.S.C. § 9607(a).

7. Except for Settling Federal Agencies, within 30 days after Respondents receive notice from EPA that EPA has signed the Settlement Agreement and the Attorney General or his designee has approved the Settlement Agreement, Respondents shall each pay to the EPA Hazardous Substance Superfund the amount set forth in Appendix B to this Settlement Agreement.

Respondents shall make payment by check to "EPA Hazardous Substance Superfund." Each check, or a letter accompanying each check, shall identify the name and address of the party making payment, the Site name, the EPA Region and Site/Spill ID Number B48J and the EPA docket number for this matter, CERCLA 04-2020-2504, and shall be sent to:

U.S. Environmental Protection Agency
Superfund Payments – Region 4
Cincinnati Finance Center
PO Box 979076
St. Louis, MO 63197-9000

Alternatively, Respondents may make their payments online through the Department of Treasury at www.pay.gov and enter "sfo 1.1" in the search field. Respondents will then click on "EPA Miscellaneous Payments - Cincinnati Finance Center" and enter the information on the electronic form before payment can be made by bank account (ACH) or debit or credit card.

8. EPA will deposit each Respondent's total payment into the EPA Hazardous Substance Superfund. At the time of payment, Respondents shall send notice that payment has been made to EPA Region 4 and to the EPA Cincinnati Finance Center (CFC) by email or by regular mail to the addresses below. Such email or mail notice shall reference Site/Spill ID Number B48J and the EPA docket number for this matter, CERCLA 04-2020-2504:

EPA R4 by email:	painter.paula@epa.gov
EPA R4 by mail:	Paula Painter, Program Analyst Environmental Protection Agency, Region 4 Atlanta Federal Center

61 Forsyth Street S.W.
Atlanta, GA 30303

EPA CFC by email: cinwd_acctsreceivable@epa.gov
EPA CFC by regular mail: EPA Cincinnati Finance Center
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

9. Except for the Settling Federal Agencies, if a Respondent fails to make the payment required by Paragraph 7 above, Interest shall continue to accrue on the unpaid balance from the date of demand through the date of payment, and the Respondent shall pay to EPA, as a stipulated penalty, \$100 for each day that payment is late for the first day through twentieth day, and \$250 for each day for the twenty-first (21st) day and beyond. Any such stipulated penalties are due and payable within 30 days after the date of demand for payment of the penalties by EPA. Penalties shall accrue as provided above regardless of whether EPA has notified the Respondent, but payment need only be made upon demand.

10. The following provisions shall apply to Settling Federal Agencies:

- a. The United States, on behalf of Settling Federal Agencies, shall pay the amount of \$27,100 as soon as reasonably practicable after the Effective Date through an interagency payment ("IPAC") to EPA R4.
- b. Interest. In the event the payment required by Paragraph 10.a. is not made within 120 days after the Effective Date, the United States, on behalf of Settling Federal Agency, shall pay Interest on the unpaid balance, with such Interest commencing on the 121st day after the Effective Date and accruing through the date of the payment.
- c. The Parties to this Settlement Agreement recognize and acknowledge that the payment obligations of Settling Federal Agency under this Settlement Agreement can only be paid from appropriated funds legally available for such purpose. Nothing in this Settlement Agreement shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

11. Except for Settling Federal Agencies and as specifically provided in Paragraph 12, EPA covenants not to sue or take administrative action against Respondents under Section 107(a) of CERCLA to recover EPA's Past Response Costs, as defined in Paragraph 6. This covenant is effective on the Effective Date and is conditioned on the Respondent's performance of its obligations under this Settlement. This covenant extends solely to the named Respondents in Appendix A and does not extend to any other person or entity.

- c. The waivers under this Paragraph 14 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person otherwise covered by such waiver if such person asserts a claim or cause of action relating to the Site against such Respondent.

15. Settling Federal Agencies agree not to assert any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through CERCLA §§ 106(b)(2), 107, 111, 112, 113 or any other provision of law with respect to response costs and this Settlement Agreement. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by a Settling Federal Agency in the performance of its duties (other than pursuant to this Settlement Agreement) as lead or support agency under the National Contingency Plan.

16. The Parties agree that this Settlement constitutes an administrative settlement under which each Respondent, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement. The “matters addressed” in this Settlement are EPA’s Past Response Costs, as defined in Paragraph 6. The Parties further agree that this Settlement is an administrative settlement under which Respondents have, as of the Effective Date, resolved liability for EPA’s Past Response Costs to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. §9613(f)(3)(B).

17. Effective upon signature of this Settlement Agreement by a Respondent, such Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Respondent the payment(s) required by Paragraph 7 and, if any, Paragraph 9 shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the matters addressed in Paragraph 16, and that, in any action brought by the United States related to the “matters addressed,” such Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondents that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.

18. This Settlement does not constitute an admission of any liability by Respondents. Respondents do not admit and retain the right to contest all findings and allegations contained in this Settlement, except in any proceeding to implement or enforce the terms of this Settlement.

19. Each signatory to this Settlement certifies that he or she is authorized to enter into this Settlement and to legally bind the party he or she represents.

20. This Settlement Agreement shall be subject to a public comment period of at least 30 days under Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section

122(i)(3) of CERCLA, EPA may withhold its consent or seek to modify this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

21. The Attorney General or his designee has approved the settlement embodied in this Settlement Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

22. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period under Paragraph 20 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any. On such date, EPA will notify Respondents by email or mail that payment is due in accordance with Paragraphs 7 and 10.

IT IS SO AGREED:

U.S. Environmental Protection Agency

By: _____

Date: _____

**Maurice L. Horsey, IV, Chief
Superfund Enforcement Branch
Superfund & Emergency Management Division
EPA Region 4**